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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,784	06/04/2001	Mark Fagnani	2657.2007-001	2841
<div>21005 7590 01/03/2008 HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133</div>				
			EXAMINER IDOWU, OLUGBENGA O	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 01/03/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/873,784

Applicant(s)

FAGNANI ET AL.

Examiner

Olugbenga O. Idowu

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-65 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-65 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/05/2001, 5/07/2002</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. This office action is in response to application number 09/873784 filed on 6/04/2001. Claims 1 – 65 have been examined and are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 – 15, 17- 32, 34 – 47 and 49 - 64 are rejected under 35 U.S.C. 102(e) as being anticipated by Alexandria, patent number: US 6 177 931 B1.

4. As per claims 1 and 34, Alexander teaches A method for reporting counted impressions in at least one network device, comprising the steps of:

collecting event data pertaining to the network device (collecting user interaction information, col. 29, lines 14 - 21);

correlating the data with a promotions schedule database (providing user information for analysis by advertisers, col. 33, lines 8 - 15); and

providing a user interface for querying the data warehouse to enable a user to determine the counted impressions of the network device which displayed specific

promotions (providing user information for analysis by advertisers, col. 33, lines 8 – 15, the information being about user interaction, col. 29, lines 31 - 55).

As per claim 2, Alexander teaches wherein the event data is correlated with a promotions schedule database (providing user information for analysis by advertisers, col. 33, lines 8 – 15).

As per claims 3 and 35, Alexander teaches wherein the event data is correlated with demographics (demography, col. 30, lines 29 - 37).

As per claims 4 and 36, Alexander teaches wherein the event data includes channel change events which occur after the promotion is displayed (attention span and general interest in advertisement, col. 30, lines 17 - 29).

As per claims 5 and 37, Alexander teaches wherein the correlation provides information as to whether a channel surfer stopped surfing after a promotion was displayed (attention span and general interest in advertisement, col. 30, lines 17 - 29).

As per claims 6 and 38, Alexander teaches wherein the event data of each network device includes a channel on the network device (watching a particular channel, col. 29, lines 41).

As per claims 7 and 39, Alexander teaches wherein the event data includes a time at which the network device was tuned to the channel (watching a show at a specific time, col. 30, lines 59 - 67)

As per claims 8 and 40, Alexander teaches wherein the event data includes a time at which the network device was tuned away from the channel (attention span and general interest in advertisement, col. 30, lines 17 - 29).

As per claims 9 and 41, Alexander teaches wherein the event data includes a connection between the network device and a peripheral (television and system components, col. 33, lines 14 - 21).

As per claims 10 and 42, Alexander teaches wherein the event data includes the viewing behavior of a viewer (viewer mannerism, col. 29, lines 56 - 67).

As per claims 11 and 43, Alexander teaches wherein the viewing behavior includes scrolling through a program guide (EPG interaction, col. 29, lines 39 - 40).

As per claims 12 and 44, Alexander teaches wherein the viewing behavior includes promotion acceptances (interest in product advertisement, col. 30, lines 20 - 21, 17 - 29).

As per claims 13 and 45, Alexander teaches wherein after the promotion is accepted another promotion is displayed such that impressions of subsequent promotions are counted (user information including interaction with advertisement, col. 30, lines 17 - 29).

As per claims 14 and 46, Alexander teaches wherein the viewing behavior includes time spent on a viewer activity (calculating the duration of each viewing, col. 29, lines 50 - 55).

As per claims 15 and 47, Alexander teaches wherein the network device periodically sends the event data to the data warehouse (information being sent to head end, col. 29, lines 14 - 21).

As per claims 17 and 49, Alexander teaches wherein the event data is represented in a compressed manner using a bit mask (information being sent to head end, col. 29, lines 14 - 21).

As per claims 18 and 50, Alexander teaches wherein the event data includes receipt of broadcast triggers (Triggers, col. 32, lines 51 - 54).

As per claims 19 and 51, Alexander teaches wherein the broadcast triggers are transmitted on a line 21 (Triggers, col. 32, lines 51 - 54).

As per claims 20 and 52, Alexander teaches wherein the event data includes receipt of triggers in MPEG streams (Triggers, col. 32, lines 51 - 54).

As per claims 21 and 53, Alexander teaches wherein the system is configurable in terms of acceptance and rejection events of the promotions based on thresholds configured dynamically through a central console (configuring ads for geographic locations, col. 32, lines 35 - 45).

As per claims 22 and 53, Alexander teaches wherein the configuration is performed for a selected network device (narrow casting commercials, col. 32, lines 55 - 60).

As per claims 23 and 54, Alexander teaches wherein the configuration is performed for a group of network devices (sending ads based on zip codes, col. 32, lines 42 - 44).

As per claims 24 and 55, Alexander teaches wherein the configuration is based on demographics of the viewers (displaying commercial based on user, col. 33, lines 26 - 43).

As per claims 25 and 57, Alexander teaches wherein the configuration is based on viewership patterns of the viewers (assigning commercials based on what viewers watch, col. 33, lines 36 - 46)

As per claims 26 and 57, Alexander teaches wherein the configuration is based on the physical capabilities of the network devices (sending ads based on zip codes, col. 32, lines 42 - 44, col. 26, lines 46 - 50).

As per claims 27 and 59, Alexander teaches wherein the event data includes the scheduled time for the promotions (including triggers for commercial presentation, col. 32, lines 51 - 54).

As per claims 28 and 60, Alexander teaches wherein the event data includes the network location of the network devices (sending ads based on zip codes, col. 32, lines 42 - 44).

As per claims 29 and 61, Alexander teaches wherein the event data includes subsequent event data after a promotion was displayed (attention span and general interest in advertisement, col. 30, lines 17 - 29).

As per claims 30 and 62, Alexander teaches wherein the subsequent data includes the display of a URL (interaction with the internet, col. 29, lines 40 - 42).

As per claims 31 and 63, Alexander teaches wherein the subsequent data includes additional channels to which the network device was tuned to (watched channels, col. 29, lines 31 - 55).

As per claims 32 and 64, Alexander teaches wherein the subsequent data includes the display of acceptance tags, and the response of the viewer to the display of the tags (general interest in product advertisement, col. 30, lines 17 - 29).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 16, 33, 48 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexandria, patent number: US 6 177 931 B1 in view of Ellis, publication number: US 2003/0020744 A1.

As per claims 16 and 48, Alexander teaches a system that sends user information to the headend for advert targeting.

Alexander does not teach a system that reports a commercial that is being viewed by the user.

In an analogous art, Ellis teaches wherein a trigger is embedded in the promotion such that when the promotion is viewed an impression is counted (monitoring commercials selected by viewers, [0108], lines 6 - 9)

Therefore, it would have been obvious to one of ordinary skill in the art to modify Alexander's commercial system by including an advert monitor system, as described in Ellis' client server system, for the advantages of better and more accurately recommending commercials to viewers.

As per claims 33 and 65, Alexander teaches a system that sends user information to the headend for advert targeting.

Alexander does not teach a system that keeps track of the devices that have displayed commercials.

In an analogous art, Ellis teaches wherein the counted impressions is the number of network devices which displayed specific promotions (monitoring user's viewing activities, [0108], lines 10 - 15).

Therefore, it would have been obvious to one of ordinary skill in the art to modify Alexander's commercial system by including an advert monitor system, as described in Ellis' client server system, for the advantages of better and more accurately recommending commercials to viewers and monitoring viewers' reactions to recommendations.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olugbenga O. Idowu whose telephone number is 571 270 1450. The examiner can normally be reached on Monday to Friday, 7am -5pm Est.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendelton can be reached on 571 272 7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

O.I.


BRIAN PENDLETON
SUPERVISORY PATENT EXAMINER